IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6092 OF 2005

Savyasachi Santosh Mukherjee. ...Petitioner.
Vs.
Union of India & Ors. ...Respondents.
....
Mr. Ramesh Ramamurthy for the Petitioner.
Mr. V. T. Tulpule, Sr. Advocate with Mr. K. K. Tated i/b. Mr. S.S. Sarkar for Respondent Nos.1 to 3.
.....

CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

January 18, 2006.

P.C.

This Petition was directed against the order of transfer of the Petitioner to Srinagar. The Petitioner approached this Court on the ground that there are standing instructions which permit a person like the Petitioner, two years before the retirement to seek a posting at or about the place where he is likely to retire. The said application was moved and was considered and the Petitioner was posted at Pune. Having so done, the Petitioner has now abruptly been transferred to Srinagar.

A reply has been filed on behalf of the Respondents. In

that it is set out that the Petitioner was unable to perform the duties expected of Group Commander, Pune. As such he was given a posting on administrative ground where his services could be better utilised and it is purely on administrative exigency that he was posted as DIG, Srinagar.

We have perused the averments in the petition as also the rejoinder filed by the Petitioner. The Petitioner belongs to an Armed Wing of the Defence Forces of this country. The instructions in the form of Standing Orders at the highest would entitle the Petitioner in the absence of any arbitrary action or malafide action of the Respondents to make a representation to the Respondents. In these circumstances, we do not think that this is a fit case where we should exercise extraordinary jurisdiction.

On the Petitioner reporting at Srinagar, it would be open to the Petitioner to make a representation to Respondent No.2. Considering the fact that the Petitioner has less than two years before retirement, Respondent No.2 to consider the purely on humanitarian basis the request of the Petitioner for transfer to a post in Maharashtra or neighbouring States where the Petitioner's

services can be utilised. The decision to be taken within three months of the Petitioner making a representation. With the above observations, the petition is disposed of. Interim relief vacated. If the Petitioner reports within ten days from today, the Respondents not to take any action against the Petitioner.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)